DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. **Claims 20-29, 31-39, 60-64 and 66-73** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. **Claims 20 and 60** are single step claims therefore fails to comply with the enablement requirement. MPEP 2164.08 (a).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. **Claims 1-9, 11-29, 31-49, 51-64, 66-78 and 80-86** are rejected under 35 U.S.C. 103(a) as being unpatentable over Munoz et al. (US 2002/0052760 A1) in view of Kosinski et al. (US 7,058,584 B2).

Regarding **claim 1**, Munoz discloses a method for processing prescriptions [paragraph 0001] comprising:

answering a telephone call from a caller [IVR system answers the telephone call and provides the caller with various voice prompts, paragraph 0038];

accepting identification of a pharmaceutical prescription from the caller [the caller is asked to enter the 13 digit NDC number of the medication for which he requires a prescription, paragraph 0046].

Munoz fails to disclose querying at least one database using predefined criteria.

However Kosinski teaches querying at least one database using predefined criteria based on the identification of a pharmaceutical prescription to identify a targeted message [the prescription processing system database is queried to locate the prescription number for a verification target message, column 20, lines 37-59]; and

playing the targeted message to the caller [a verification message is played for the caller at step S234 in order to confirm that the appropriate prescription number was submitted, column 20, lines 37-59].

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Munoz using the teaching of verification message as taught by Kosinski.

This modification of the invention enables the system to query at least one database using predefined criteria so that the user would confirm the prescription number.

Regarding **claims 2, 21, 41, 61 and 75**, Munoz discloses a method wherein the playing is followed by executing a refill call flow for the pharmaceutical prescription [paragraph 0047].

Regarding **claims 3, 22, 42, 62 and 76**, Kosinski teaches a method wherein the querying comprises querying at least one database using the predefined criteria based on the identification of a pharmaceutical prescription to identify a series of targeted messages [column 20, lines 37-59]; and

wherein the playing comprises playing a succeeding one of the series of targeted messages to the caller in response to receipt of a caller response to a preceding one of the series of targeted messages [column 20, lines 37-59].

Regarding **claims 4, 23, 43, 63 and 77**, Kosinski teaches a method further comprising: receiving a caller response to the targeted message [column 20, lines 37-59].

Regarding **claims 5, 24, 44, 64 and 78**, Kosinski teaches discloses a method further comprising logging the caller response [column 20, lines 37-59].

Regarding **claims 6, 25, 45 and 65**, Kosinski teaches a method further comprising instructing the pharmacy to perform an action in response to the caller response to the targeted message [column 20, lines 37-59].

Regarding **claims 7, 26, 46, 66 and 80**, Munoz discloses a method wherein the predefined criteria based on the identification of a pharmaceutical prescription comprise age of a patient who is using the pharmaceutical prescription, gender of the patient, medication of the pharmaceutical prescription, last fill date of the pharmaceutical prescription, days supply on last fill of the pharmaceutical prescription, original fill date of the pharmaceutical prescription, disease state of the patient, physician of the patient and/or other promotions in effect [paragraph 0044].

Regarding **claims 8, 27, 47, 67 and 81**, Munoz discloses a method wherein the predefined criteria based on the identification of a pharmaceutical prescription do not include a personal identification of a patient who is using the pharmaceutical prescription [paragraph 0045].

Regarding **claims 9, 28, 48, 68 and 82**, Munoz discloses a method wherein the predefined criteria based on the identification of a pharmaceutical prescription comprise age of the patient, gender of the patient, medication of the pharmaceutical prescription, last fill date of the pharmaceutical prescription, days supply on last fill of the pharmaceutical prescription, original fill date of the pharmaceutical prescription, disease state of the patient, physician of the patient and/or other promotions in effect, but do not include a personal identification of a patient who is using the pharmaceutical prescription [paragraph 0044].

Regarding **claims 11, 29, 49, 69 and 83**, Kosinski teaches a method wherein the targeted message comprises an educational message concerning the pharmaceutical prescription, a message that indicates alternative medications that may be substituted for the pharmaceutical prescription, a message that identifies other items that may be desired and/or a message that solicits participation in a study related to the pharmaceutical prescription [column 20, lines 37-59].

Regarding **claims 12, 31, 51, 70 and 84**, Kosinski teaches a method wherein the querying comprises querying at least one database using the predefined criteria based on the identification of the pharmaceutical prescription to identify an educational targeted message concerning the pharmaceutical prescription [column 20, lines 37-59].

Regarding **claims 13, 32, 52, 72 and 85**, Kosinski teaches a method wherein the querying comprises: querying at least one database using predefined criteria of last fill date and days supply on last fill date based on the identification of a pharmaceutical prescription [column 20, lines 37-59]; and

identifying an educational targeted message that reminds the caller how to use the pharmaceutical prescription if the last fill date is less than a first threshold and the days supply on last fill date is greater than a second threshold [column 20, lines 37-59].

Regarding **claims 14, 33, 53, 73 and 86**, Kosinski teaches a method wherein the querying comprises: querying at least one database using predefined criteria of last fill date and days supply on last fill date based on the identification of a pharmaceutical prescription [column 20, lines 37-59]; and

identifying a targeted message that indicates alternative medications that may be substituted for the pharmaceutical prescription if the last fill date is less than a first threshold and the days supply on last fill date exceeds a second threshold [column 20, lines 37-59].

Regarding **claims 15, 34 and 54**, Kosinski teaches a method wherein the querying comprises: querying at least one database using predefined criteria of age, gender, last fill date and days supply on last fill date based on the identification of a pharmaceutical prescription [column 20, lines 37-59]; and

identifying a targeted message that indicates other items that may be desired if the gender is female, the age exceeds a first threshold, last fill date is less than a second threshold and days supply on last fill date exceed a third threshold [column 20, lines 37-59].

Regarding **claims 16, 35 and 55**, Kosinski teaches a method wherein the querying comprises: querying at least one database using a predefined criterion of age of a patient who is using the pharmaceutical prescription based on the identification of a pharmaceutical prescription [column 20, lines 37-59]; and

identifying a targeted message that that solicits participation of the patient in a study related to the pharmaceutical prescription if the age of the patient qualifies the patient to participate in the study related to the pharmaceutical prescription [column 20, lines 37-59].

Regarding **claims 17, 36 and 56**, Kosinski teaches a method further comprising: providing additional targeted messages to allow the patient to participate in the study if the patient agrees to participate [column 20, lines 37-59].

Regarding **claims 18, 37 and 57**, Kosinski teaches a method wherein the querying comprises: querying at least one pharmacy dispensing system database using the identification of the pharmaceutical prescription to identify the predetermined criteria [column 20, lines 37-59]; and

querying at least one message database using the predetermined criteria to identify a targeted message [column 20, lines 37-59].

Regarding **claims 19, 38, 39, 58 and 59**, Munoz discloses a method wherein the identification of a pharmaceutical prescription is an Rx number [paragraph 0047].

Regarding **claim 20**, Munoz in combination with Kosinski teaches all the limitations of claim 20 as stated in claim 1' rejection above.

Regarding **claim 40**, Munoz in combination with Kosinski teaches all the limitations of claim 40 as stated in claim 1' rejection above.

Regarding **claim 60**, Munoz in combination with Kosinski teaches all the limitations of claim 60 as stated in claim 1' rejection above.

Regarding **claim 74**, Munoz in combination with Kosinski teaches all the limitations of claim 74 as stated in claim 1' rejection above.

Allowable Subject Matter

7. **Claims 10, 30, 50, 65 and 79** are allowed.

Response to Arguments

8. Applicant's arguments with respect to **claims 1-9, 11-29, 31-49, 51-64, 66-78 and 80-86** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Boyer et al. is cited for an automated pharmacy.

Garcia is cited for an interactive telephony system.

Lammle is cited for providing pharmaceutical product information to a patient.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gerald Gauthier/
Primary Examiner, Art Unit 2614

/GG/
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